

McKinney-Vento Act: Education of Homeless Children & Youth

Dispute Resolution Protocols District Procedures and Compliance

The federal McKinney-Vento (MV) Education of Homeless Children and Youth Program requires states to ensure equal access to public schools and other educational supports for homeless students. Among the provisions is the right of homeless parents and unaccompanied homeless youths to dispute district determinations of school placement and MV eligibility.

This brief provides guidance for New Hampshire school districts regarding procedures and protocols for dispute resolution and appeals, in compliance with the McKinney-Vento Act's Education of Homeless Children and Youth Program, as reauthorized in 2015 under the Every Student Succeeds Act (ESSA).

2015 Reauthorization Changes to MV Provisions

The 2015 MV reauthorization resulted in the codification of several items previously found in non-regulatory guidance. One such change occurred in the determination of a student's best interest:

Previous MV provision:

In determining the best interest of an eligible child or youth, the district shall, *to the extent feasible*, keep the student in their school of origin.

Under new MV:

In determining the best interest of an eligible child or youth, the district shall *presume that keeping the student in the school of origin is in their best interest*, except when doing so is contrary to the request of the parent or unaccompanied student.

In addition to the presumption clause, MV directs district to **consider student-centered factors** related to the child or youth's best interest, including factors related to "the impact of mobility on achievement, education, health and safety" of homeless students, giving priority to the request of the parent or unaccompanied youth.

Also new in the Act is the provision that the **receiving or feeder schools** are included in the definition of "school of origin." The same criteria for best educational interest determinations apply to feeder schools. A review of a student's best educational interest is appropriate whenever a school change is about to occur.

McKinney-Vento Act: Section 722(g)(3)(E)

"If a dispute arises over eligibility, or school selection or enrollment in a school...

(i) the child or youth shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;

(ii) the parent, guardian or unaccompanied youth is provided with a written explanation of any decisions related to school selection or enrollment made by the school or district, including the right to appeal such decisions;

(iii) the parent, guardian or unaccompanied youth shall be referred to the local district liaison who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute;

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

Elements of Written *School Placement* Dispute Resolution Notification

- Citation of the MV Act regarding right to enrollment, dispute resolution and appeal process.
- Explanation of the determination.
- Reason for the determination.
- Instructions to appeal the dispute, including specific phone numbers, emails, etc., that are not too cumbersome; must be manageable by a homeless parent or student.
- Appeals process should allow for determination by district Superintendent, rising in hierarchy (if necessary) to the New Hampshire Department of Education.
- Important: Notify and copy State Coordinator, particularly if appeal may go to the State.
- Provide a reasonable timeline for appeal process and decision.
- Use language that is direct and comprehensible, but not intimidating.
- Brief is best, especially for the initial notification. Save specifics for appeal process, to justify determination.

McKinney-Vento *Eligibility* Disputes

The reauthorization clarified that eligibility for McKinney-Vento may be disputed by a parent, guardian or youth. If a family or student claims to live in a homeless living situation and requests the rights of an eligible student, and the liaison disagrees the living situation qualifies, dispute resolution protocols are required. Procedures for resolution of eligibility disputes mimic that of school placement disputes, with similar rights to enrollment during the dispute process. Notification and resolution should be handled quickly, to minimize need for school enrollment changes.

The New Hampshire Department of Education further recommends that:

A. The person having the complaint (parent/guardian/student) should first contact the school or district (e.g. the local school district liaison for homeless students, the principal, or superintendent) to present their concerns to the people closest to the situation and most likely to be able resolve it quickly.

B. If Step A is not successful or is not possible under the circumstances, the parent, guardian or student should contact the New Hampshire Department State Coordinator for Education of Homeless Children and Youth: Ashley L Greene, M.Ed. at Ashley.greene@doe.nh.gov or (603) 271-3840.

C. Districts that make determination on eligibility, enrollment or school placement for homeless students that conflict with the wishes of the parent or student involved are required to provide notice of the determination in writing to the parties involved, along with instructions on how to appeal the decision. Students are entitled to remain in their school or choice, with transportation, until the appeal process has reached conclusion. Districts are advised to include review by the New Hampshire Department of Education as the final step in the appeals process, and to contact the State Coordinator at the time written notification is processed to ensure rapid response.

DISTRICT COMPLIANCE MONITORING—Local Dispute Resolution Policies

Federal Title programs in all districts, including McKinney-Vento, are monitored by the New Hampshire Department of Education on a regular basis. Reviews include verification that each school district has policies and procedures addressing the rights of homeless students, including the right to appeal eligibility and placement determinations. Districts should maintain copies of written notifications related to MV student eligibility and placement for monitoring evidence.

For more information on compliance with Dispute Resolution provisions of the McKinney-Vento Act, Education of Homeless Children and Youth Program, contact the State Coordinator's Office at the New Hampshire Department of Education: Ashley L Greene, M.Ed. at Ashley.greene@doe.nh.gov or (603) 271-3840.